

Civil Review No. 19 of 2006.

24.8.2006.

Present: Mr. D.D. Sood, Senior Advocate,  
with Mr. Paresh Sharma, Advocate,  
for the petitioner.

Mr. M.S. Chandel, Advocate General  
With Mr. J.K. Verma, Dy. Advocate  
General, for respondent Nos. 1 and  
5.

Mr. G.R. Palsara, Advocate, for  
Respondent Nos. 2 and 3.

Mr. B.N. Mishra, Advocate, for  
Respondent No. 4.

Replies have been seen. Heard  
learned counsel for the parties.

In CWP No. 205 of 2006 the writ  
petitioner had leveled the allegations  
against the respondents, particularly  
respondent No. 3 which related allegedly to  
his having committed certain acts in  
violation of the provisions of the H.P.  
Municipal Act, 1994 despite the fact that at  
the time the alleged acts were allegedly  
committed by respondent No. 3, his election  
as President had not been notified and in  
any event he had not been administered the  
oath of office. Based on these allegations,  
the writ petitioner had prayed for issuance  
of writs of prohibition etc. restraining the  
respondent No.3 from discharging the  
functions as the President of the Municipal  
Council etc. etc.

CWP No. 205 of 2006 was dismissed by a Division Bench of this Court on 21<sup>st</sup> March, 2006 ostensibly and apparently on the premise that respondent No. 3 having been elected as the President was since administered the oath of the Office and therefore the Court did not find anything wrong with his having acted and continuing to act as the President of the Municipal Council. In the aforesaid order, this Court perhaps by inadvertence or oversight could not or did not notice the fact that the election of respondent No. 3 as the President of the Municipal Council had been notified only on 30<sup>th</sup> January, 2006 and he had been administered the oath of office on 10<sup>th</sup> February, 2006. On a plain reading of Section 27 of the 1994 Act, respondent No. 3 could not have discharged the functions of the President of the Municipal Council before 10<sup>th</sup> February, 2006. Based upon these factual developments and the application of law on these developments, that the writ petitioner had filed the writ petition seeking the aforementioned reliefs against respondent No. 3.

We are satisfied that in the facts and circumstances of this case as noticed

hereinabove, the writ petition did not deserve to be dismissed in limine because the point raised by the petitioner did require a reply from the respondents and consideration by this Court. The order dated 21<sup>st</sup> March, 2006 accordingly is reviewed and recalled. CWP No. 205/2006 is restored and revived.

On restoration and revival CWP NO. 205 of 2006 is taken up for consideration of admission today itself. The Respondents represented by their learned counsel may file replies to the Writ petition in four weeks from today. Rejoinder, if any, thereto in two weeks thereafter.

(V.K. Gupta), C.J.

24<sup>th</sup> August, 2006  
(cm)

(Surjit Singh), J.